

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON**

SHEILA GIBSON,

Plaintiff,

CASE NO. 3:21-cv-00603

v.

JUDGE _____

THE UNITED STATES OF AMERICA
c/o William S. Thompson, U.S. Attorney
U.S. Attorney's Office
Robert C. Byrd U.S. Courthouse, Suite 4000
Charleston, WV 25301

and

c/o Merrick B. Garland, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001,

Defendant.

COMPLAINT

Now comes the Plaintiff, Sheila Gibson, by and through counsel, Matthew R. Oliver, Jason A. Leasure, and Vital & Vital, L.C., and for her Complaint against the United States of America states as follows:

JURISDICTION

1. This action is brought pursuant to Federal Tort Claims Act 28 U.S.C. ' 2671, 28 U.S.C. ' ' 1331, and 1346(b), for money damages as compensation for personal injuries caused by the negligent act(s) and/or omissions of employee(s) of the United States Government while acting within the scope of their offices and employment.

2. On February 17, 2021, the Plaintiff, Sheila Gibson, by counsel, filed an Administrative Claim with the United States Postal Service for damages arising from a November 22, 2019, motor vehicle collision between the Plaintiff and a vehicle owned and operated by the United States Postal Service.

3. Although over 9 months have passed since the Plaintiff properly presented the aforesaid Administrative Claim to the United States Postal Service, the United States Postal Service has failed to make a final disposition of the Claim. The Plaintiff, by counsel, pursuant to 28 U.S. Code § 2675 (a), elects to treat the agency's failure to timely act as a final denial of her claim, thereby giving this Court proper jurisdiction to hear this matter at this time.

4. Venue is proper in this Court because the acts and/or omissions complained of herein occurred in the City of Huntington, in the County of Cabell, in the State of West Virginia.

PARTIES

5. At all times hereinafter mentioned and at the time of the incident complained of, the Plaintiff, Sheila Gibson, was a resident of the City of Nitro, in the County of Kanawha, in the State of West Virginia.

6. The United States of America, on behalf of the United States Postal Service, its employees and representatives, is the proper Defendant pursuant to the Federal Tort Claims Act.

FACTS

7. On or about the 22nd day of November, 2019, the Plaintiff, Sheila Gibson, was operating a motor vehicle, to-wit: a 2014 Dodge Grand Caravan on Adams Avenue in the City of Huntington, in the County of Cabell County, in the State of West Virginia.

8. At the time and place aforesaid, Marisha Roush, an employee of the Defendant, the United States of America, was operating a motor vehicle, to-wit: a 2010 Dodge Grand

Caravan United States Postal Service vehicle, and did so negligently and carelessly operate, maintain, and control the said motor vehicle being operated by her, as aforesaid, to cause the same to be driven into and/or cause a collision with the motor vehicle being then and there driven by the Plaintiff, Sheila Gibson, as aforesaid.

9. At all times hereinafter mentioned and at the time of the incident complained of, Marisha Roush was operating said motor vehicle while in the course and scope of her employment with the U.S. Postal Service and was therefore an employee of Defendant, the United States of America, as defined by the Federal Tort Claims Act.

DAMAGES

10. As a direct and proximate result of the negligence of Marisha Roush, as an employee of the United States of America, as aforesaid, the Plaintiff, Sheila Gibson, was seriously and severely injured in and about the head, neck, back, body, limbs, and was thereby rendered sick, sore, lame and otherwise disabled; or, in the alternative, the injuries aforesaid thereby caused or contributed to cause an aggravation of a previously existing defect or infirmity; and, as a direct result thereof, the Plaintiff, Sheila Gibson, has in the past, and will in the future, suffer great pain and anguish of body and mind, and the respective injuries so complained of by her are permanent in nature.

11. As a further direct and proximate result of the negligence of Marisha Roush, as an employee of the United States of America, as aforesaid, the Plaintiff, Sheila Gibson, has in the past, and will in the future, undergo painful and extensive medical care and treatment, and has in the past incurred, and will in the future incur, medical bills and expenses attendant to her injuries, as aforesaid.

WHEREFORE, the Plaintiff, Sheila Gibson, demands judgment against the Defendant, the United States of America, in an amount in excess of the basic jurisdictional limits of this Court, together with interest and costs, for which she prays in addition thereto.

SHEILA GIBSON,

By Counsel,

s/ Matthew R. Oliver

Matthew R. Oliver, Esquire (WV Bar No. 10683)

Jason A. Leasure, Esquire (WV Bar No. 10332)

VITAL & VITAL, L.C.

536 Fifth Avenue

Huntington, WV 25701

(304) 525-0320

E-mail: mroliver@vitalc.com

jaleasure@vitalc.com

Counsel for the Plaintiff